

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JAMES E. DAVIS, ET AL.

VS.

CAUSE NO. 3:11-CV-093-MPM-SAA

ACA FINANCIAL GUARANTY
CORPORATION, and
JOHN DOES One through Ten
DEFENDANTS

**NOTICE OF VOLUNTARY DISMISSAL OF PLAINTIFF
ROBIN GERUT WITHOUT PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff Robin Gerut hereby notifies this Court and the parties that she voluntarily dismisses without prejudice all of her claims against all Defendants. This notice concerns the claims of Plaintiff Robin Gerut only and does not concern any other Plaintiffs or claims. Rule 41(a)(1)(A)(i) provides that a notice of dismissal is appropriate for voluntary dismissal “before the opposing party serves either an answer or a motion for summary judgment.” In this case, Defendants have only filed a Motion to Dismiss Plaintiffs’ Seconded Amended Complaint; according to the Court’s docket, they have not filed an answer or a motion for summary judgment. *See generally, Carter v. United States*, 547 F.2d 258 (5th Cir. 1977) (holding that where plaintiff filed a motion to dismiss his lawsuit before defendants filed an answer or summary judgment motion, he had the absolute right to such dismissal, and defendants’ own motion to dismiss would not be considered the equivalent of an answer).

Respectfully submitted, this the 4th day of October, 2013.

By: /s/JESSE MITCHELL, III
Jesse Mitchell, III (MS Bar No.103020)
Attorney for Plaintiffs

OF COUNSEL:
THE MITCHELL FIRM, PLLC
774 Avery Blvd., Suite G
Ridgeland, Mississippi 39157
Telephone: (769) 300-0462
Facsimile: (601) 510-1981
Email: jmitchell@themitchellfirms.com

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Respectfully Submitted,

/s/ JESSE MITCHELL, III
JESSE MITCHELL, III (MSB 103020)